IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

WP(C).No. 18190 of 2006(M)

AGAINST THE ORDER IN EP 200 2005 IN OS.66/2003 of MUNSIFF COURT, OTTAPPALAM

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PETITIONER:

C. VEERAN KOYA, S/O. C. SAINUDHEEN,
CHENNARIYIL HOUSE, JUBILI ROAD,
S.R.K. NAGAR, OTTAPALAM, PALAKKAD DISTRICT.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENT:

STATE BANK OF INDIA, THRIKKADEERI
BRANCH, OTTAPALAM TALUK, REPRESENTED
BY ITS BRANCH MANAGER.

BY ADV. SRI.K.K.CHANDRAN PILLAI, SC, SBI
SRI.R.V.SATHYAPRIYAN NAIR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.18190/2006 M

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE EXECUTION PETITION AS E.P.200 OF 2005 DTD. 30/07/2005.**

EXT.P2: **COPY OF THE COUNTER DTD. 13/10/2005.**

EXT.P3: **COPY OF THE ORDER DTD. 20/06/2006 IN E.P.NO.200 OF 2005 IN O.S.66 OF 2003 BY THE MUNSIFF'S COURT, OTTAPALAM.**

/TRUE COPY/

P.A.TO JUDGE

KSS

PIUS C. KURIAKOSE, J.

W.P.(C) NO.18190 of 2006

Dated this the 26th day of July, 2007

JUDGMENT

Sri.Santheep Ankarath, the learned counsel for the petitioner, submits that he relinquished the vakalath of the petitioner and that the petitioner has been informed of the same. But, since it is the supervisory jurisdiction under Article 227 which is invoked, the scope of interference with Ext.P3 impugned order under the said jurisdiction can certainly be examined. Under Ext.P3, the court has found that in spite of sufficient means the petitioner willfully neglected to pay and on that basis ordered warrant for arrest of the petitioner. Having gone through Ext.P3, it cannot be said that Ext.P3 is vitiated to the extent of justifying interference by this court under Article 227 of the Constitution. I find that no counter evidence whatsoever was adduced by the petitioner before the court below to the evidence which was adduced by PW1 - the manager of the bank. This court while admitting this writ petition granted stay

imposing a condition that a sum of Rs.10,000/- shall be paid within one month from 12.7.2006. It is conceded before me that the above condition was complied with by the petitioner. The balance amount due to the bank will be roughly only Rs.40,000/-.

2. Even though Ext.P3 is being sustained, I am of the view that the petitioner can be permitted to pay off the balance decree debt in instalments. Accordingly, even as I approve Ext.P3 and repel the challenge against the same, I dispose of this writ petition directing that the order of stay presently passed will continue till such time the entire decree debt is wiped of by the petitioner on conditions that the petitioner shall deposit a further amount of Rs.10,000/-(Rs.Ten Thousand only) within one month from today and he shall continue to pay towards the balance decree debt every month commencing from 16.9.2007 at the rate of Rs.5,000/-(Rs.Five Thousand only). Once the petitioner remits instalments without fail and he becomes confident that the entire decree debt is wiped off, it is open to him to file an application before the court below for recording full satisfaction of the decree debt. If such application is received, the court

below will hear the parties and take a correct decision on the same. It is made clear that in the event of default in the matter of remitting the instalments, the petitioner will forfeit the benefits of this judgment and under such an event, the impugned order will become operative. Nothing stated in this judgment will stand in the way of the decree holder bank seeking attachment of the terminal benefits of the petitioner, who is said to retire from service shortly.

PIUS C. KURIAKOSE,
JUDGE.

Dpk